

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

JAMES THOR KIRK,

Plaintiff,

v.

12cv1157 JAP/WPL

OFFICER JEFFREY BURKE,

Defendant.

**ORDER GRANTING-IN-PART AND DENYING-IN-PART
KIRK'S MOTION TO PRODUCE ELECTRONIC EVIDENCE**

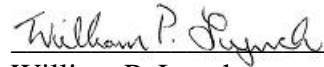
Plaintiff James Kirk filed a Motion to Produce Lapel Cam, Dash Cam, and Belt Tape from "Defendants[] Jeffery [sic] Burke, Hailey Cage and Paul Lopez." (Doc. 264 at 1.) Burke responds that he "has already produced everything in his possession relating to this case." (Doc. 266 at 1.) Burke's response, though it may be true, fails to completely address Kirk's request. Kirk seeks electronic evidence from three officers, not just Burke. And given that Kirk's claims are now limited to the twenty-four minutes following the roll-over crash, as discussed in Judge Parker's Memorandum Opinion and Order (*see* Doc. 216 at 7), the existence of additional electronic evidence from that limited time period may prove beneficial when evaluating Kirk's claims.

Yet granting Kirk's motion in its entirety is not warranted. Burke has already produced his electronic evidence of the incident (*see* Doc. 112-2), and Cage was not involved in the disputed twenty-four minutes following the crash; instead, Cage transported Kirk to the Valencia County Detention Center after Kirk was cleared from the University of New Mexico Hospital (*see* Doc. 110 at 9). Lopez, however, both handcuffed Kirk and "stayed with Mr. Kirk until

medical personnel arrived on scene” (Doc. 110-1 at 9; *see also* Doc. 112-3 at 2), which means Lopez was directly involved in the disputed twenty-four minutes.

Accordingly, I grant-in-part and deny-in-part Kirk’s motion. (Doc. 264.) I will enter an order for a *Martinez* Report directing Burke to provide Lopez’s electronic evidence relating to this incident. *See Hall v. Bellmon*, 935 F.2d 1106, 1109 (10th Cir. 1991); *Martinez v. Aaron*, 570 F.2d 317, 319-20 (10th Cir. 1978).

IT IS SO ORDERED.



William P. Lynch
United States Magistrate Judge